



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,969	11/09/2001	Edwin Evans	PHDL0640-001	3784

7590 04/14/2003

Ellis, Venable & Busam LLP
Suite 702
3030 N. Central Avenue
Phoenix, AR 85012

EXAMINER	
ENGLE, PATRICIA LYNN	
ART UNIT	PAPER NUMBER
3612	

DATE MAILED: 04/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,969

Applicant(s)

EVANS, EDWIN

Examiner

Patricia L Engle

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 13, 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.

The claims are not double spaced.

2. The disclosure is objected to because of the following informalities:

- a. On page 6, please delete lines 7-21;
- b. On page 8, line 19, please change "Quickgrab™ to --QUICKGRAB™--.
- c. On page 8, lines 20-22, please delete the website link;
- d. In the Abstract, line 5, please change "not (2)" to --not, (2)--

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Gunn (US Patent 4,544,195).

Regarding claim 1, Gunn discloses a window system for use on a motor vehicle with a convertible soft covering system, the window system comprising: a flexible

window (30) having a first window side, a second window side and a window perimeter area; a soft cover window frame (28) having an outside frame side and an inside frame side; and an insertable screen (26) having a first screen side and a second screen side and a bottom side; wherein the window perimeter area on the second window side (of 30) matingly couples with the first screen side (of 26), and the second screen side matingly couples with the inside window frame (see Fig. 5).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gunn in view of Bell (US Patent 5,921,571).

Gunn discloses the window system of claim 1.

Gunn does not disclose that the second side window perimeter and the first screen side are mating coupled using hook and loop type fasteners and the second screen side and the inside window frame are coupled using hook and loop type fasteners. Gunn does disclose that the screen (26) is sewn or otherwise suitably attached to the inside frame side and that the window and the screen are coupled using a zipper.

Bell teaches that zippers and hook and loop type fasteners are equivalent (column 8, lines 10-12). Hook and loop type fasteners would be an equivalent/ suitable attaching means to sewing.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use hook and loop type fasteners to couple the screen with the frame and the flexible window.

The motivation would have been to allow the screen to be removable to make repairing or replacing it easier.

Therefore, it would have been obvious to combine Bell with Gunn to obtain the invention as specified in claim 2.

7. Claims 3, 6, 7, 11, 12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gunn.

Gunn discloses the window system of claim 1

Regarding claims 6, 11, 12 and 15, Gunn does not disclose that there is more than one insertable screen between the flexible window and the window frame. It would have been obvious to one of ordinary use two screens instead of one since it has been held that a mere duplication of parts involves only routine skill in the art. Regarding claims 11 and 12, it would have been obvious to one of ordinary skill in the art to rotate the second screen. The motivation would have been to block more insects, air and sunlight.

Regarding claims 3, 7 and 16, Gunn does not disclose the details of the material used for the screen. It would have been obvious to one of ordinary skill in the art at the

time of the invention to use a woven vinyl coated material since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious mechanical expedient.

8. Claims 4, 5, 8, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gunn in view of the Applicant's Admissions

Gunn disclose the window system of claims 1 and 6 (see above).

Gunn does not disclose that the screen blocks 55-95% of the sunlight.

The Applicant admits that Phifer sells a product called SUNTEX® which blocks over 75% of the sun's rays.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use a screen that blocked the sun's rays as it would merely involve the alternate utilization of an equivalent screen material to achieve the same exact function.

Therefore, it would have been obvious to combine the Applicant's admissions with Gunn to obtain the invention as specified in claim 4, 5, 8, 9 and 10.

Double Patenting

9. Applicant is advised that should claim 9 be found allowable, claim 10 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Allowable Subject Matter

10. Claims 13 and 14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter: The primary reason for the indication of allowable subject matter is that the prior art of record does not disclose or suggest a window system in which the bottom side of the screen is pinched between the spare tire gate and the back gate of a vehicle, in combination with the other elements recited.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miskowic, van der Sleen, Tunnell, IV, Sylvester et al., Odekirk, Schnepf, and Parker teach that zippers and hook and loop fasteners are equivalent fastening means. Pank, Sugie, Wu, Lazarek and Christian disclose screens for windows. Essig discloses a flexible window being secured at the bottom in the area of a spare tire holder. Kubatzky, Agosta et al., Cohen, Willis and Westrope disclose window which are layered.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777. The examiner can normally be reached on Monday - Friday from 8:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Patricia L Engle
Examiner
Art Unit 3612

ple
April 4, 2003


D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600